

Cassandra Stamm  
Hawaii Bar # 11384  
P.O. Box 1564  
Kapaa, HI 96746  
(808) 977-2528  
caseystamm@hotmail.com  
Counsel for Defendant Lindsey Kinney

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	
	)	No. 1:22-cr-00031-DKW
	)	
Plaintiff,	)	
	)	DEFENDANT'S EIGHTH
v.	)	MOTION IN LIMINE (TO
	)	EXCLUDE KINNEY_000911,
LINDSEY KINNEY,	)	912, 914, 916, & 920)
	)	
Defendant.	)	

**I. Introduction and Background Facts.**

Mr. Kinney is charged by Superseding Indictment with posting threats on Instagram on January 17 and March 28, 2022. Docket Sub. No. 47 (Superseding Indictment). The government seeks to introduce other prior bad acts including Instagram posts produced in discovery at KINNEY\_000911, 912, 914, 916, and 920. Docket Sub. No. 60 at 2 ¶1. These posts are attached hereto as Appendix A.

KINNEY\_000911 and 912 are two parts of one May 28, 2021, antisemitic post. App. A at 1-2. KINNEY\_000914 is another antisemitic post dated May 5, 2021. App. A at 3.

KINNEY\_000916 and 920 are two parts of a five-part March 9, 2021, post the government seeks to introduce. App. A at 4, 8. The post includes the following text:

All u fucking elite bitches come to Hawaii..your heads is mines..hide..U can't hide from Yahuah..he sees all..after I take your head..im coming for u all..what does this mean..Hawaii..it means our government is hiding these elite bitches..it's called Treason..that means..off with there heads..dot your I cross your t..I want him alive..I'm gonna make him scream..I want all the info from him..everything..knowledge is power..confidence is key..find him Hawaii..I'll do the rest..off with his head..100,000g..real talk.

*Id.* As the government apparently intends to offer it, the post does not identify who is referenced in the post. *Id.* KINNEY\_000917 and 918, not offered by the government, *see* Docket Sub. No. 60 at 2 ¶ 1., clearly do identify who is referenced in the post—Jeffrey Epstein, a man dead for more than a year at the time of the post. App. A at 5-6.

## **II. Argument.**

The government posits these posts are all admissible pursuant to Rule 404(b) *and* inextricably intertwined with the charged offenses. Docket Sub. No. 60 at 3. Admissibility of evidence of prior bad acts is governed by Federal Evidence Rules 403 and 404(b) as outlined in Mr. Kinney's third, fourth, and fifth motions in limine. This argument is incorporated by reference herein.

Evidence is inextricably intertwined with the charged crimes if it is part of a

single criminal episode or a necessary preliminary to the crime charged.<sup>1</sup> Examining the 'inextricably intertwined' criteria, the Ninth Circuit has recognized only limited categories of potentially admissible evidence:<sup>2</sup>

First, evidence of prior acts may be admitted if the evidence 'constitutes a part of the transaction that serves as the basis for the criminal charge.' Second, prior act evidence may be admitted 'when it was necessary to do so in order to permit the prosecutor to offer a coherent and comprehensible story regarding the commission of the crime.'

The posts at KINNEY\_000911, 912, 914, 916, and 920 are not connected in any way to the charged offenses. They are not part of the basis for these charges, or in any way part of a coherent story regarding the same.

The Government has not precisely articulated any hypothesis by which a fact of consequence, relating to the charged January and March 2022 postings referencing alleged Victims 1-5, may be inferred from these posts. These posts are not connected with the charged alleged threats or victims. They are also quite remote in time, posted in March and May of 2021, ten to twelve months before the first charged offense.

The posts at KINNEY\_000911-12 and 14 do not include any threats, true or otherwise. The post at KINNEY\_000916-18 and 20 is directed toward a dead man. In this way these posts are very much dissimilar to the offenses charged. The

---

<sup>1</sup>*United States v. Williams*, 900 F.2d 823, 825-26 (5<sup>th</sup> Cir. 1990); *see also*, *United States v. Record*, 873 F.2d 1363, 1372 n.5 (10<sup>th</sup> Cir. 1989).

<sup>2</sup>*United States v. DeGeorge*, 380 F.3d 1203, 1220 (9<sup>th</sup> Cir. 2004) (citations omitted).

government has not produced any evidence connecting these posts to the charged alleged threats or victims. Absent such evidence, these posts are not relevant. Any invitation that the jury should speculate to make such connections is inappropriate and creates a danger of unfair prejudice and confusion of the issues.

Finally, the anti-semitic nature of the posts is likely to provoke an emotional impact that is easy to see and difficult to overstate. Presentation of other acts with anti-semitic aspects calls up the strongly negative and upsetting emotions associated with the Holocaust and the brutal and inhumane persecution and genocide of six million Jews by Hitler's Nazi-regime. In this respect especially, the danger of undue prejudice far outweighs any probative value of these posts.

### **III. Conclusion.**

The government's attempt to prove its case with these posts (KINNEY\_000911, 912, 914, 916, and 920) does not comport with Federal Rules of Evidence 402, 403, and 404(b). The Court should rule in limine that such evidence is not admissible.

DATED this 22<sup>nd</sup> day of November, 2022.

/s/ Cassandra Stamm  
Law Offices of Cassandra Stamm, LLC

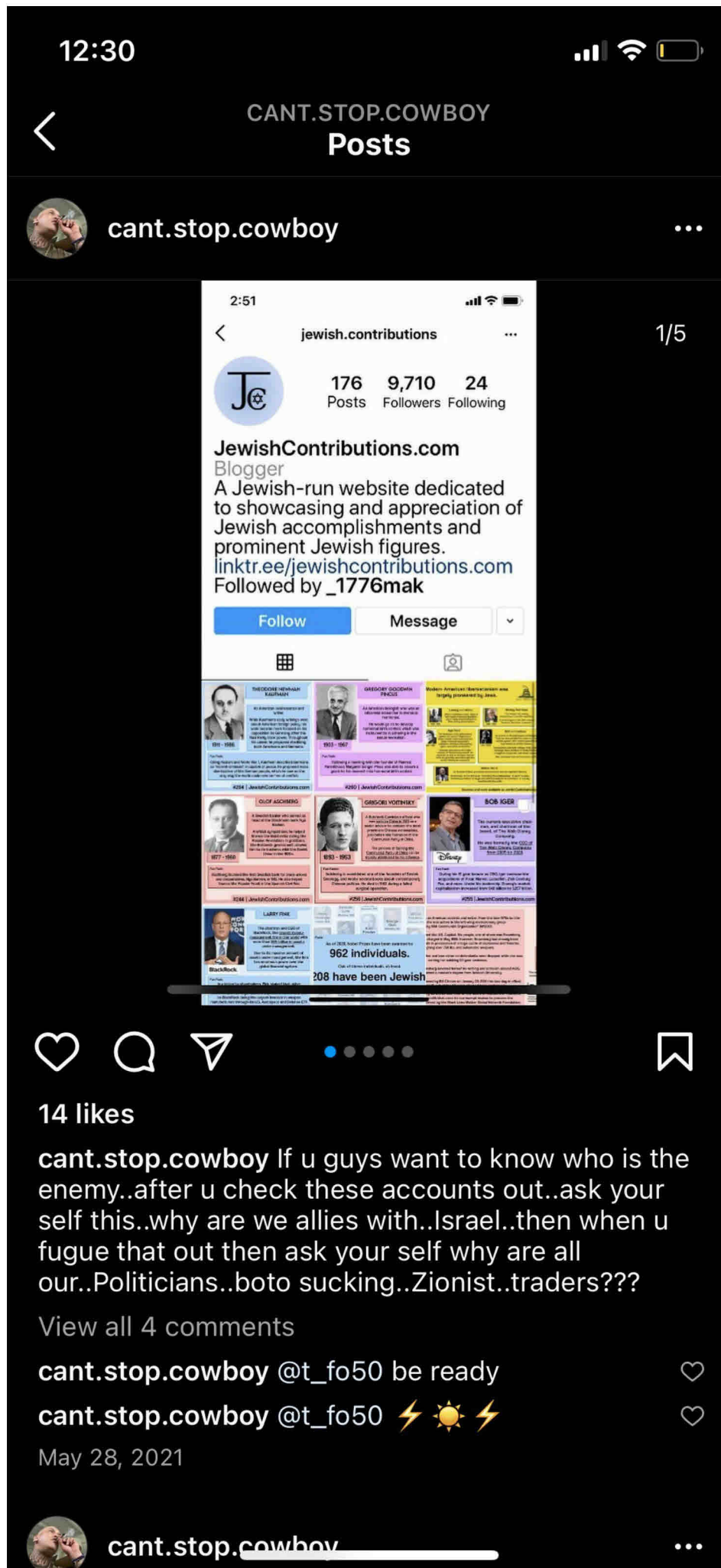
**CERTIFICATE OF SERVICE**

I hereby certify that on November 22, 2022, I electronically filed the foregoing Eighth Motion in Limine with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the Government.

/s/ Cassandra Stamm

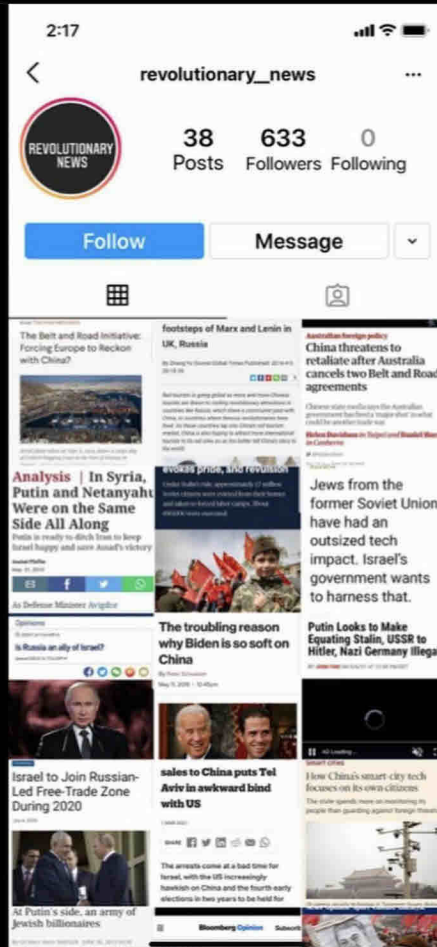
Law Offices of Cassandra Stamm, LLC

# **Appendix A**





• • •



2/5



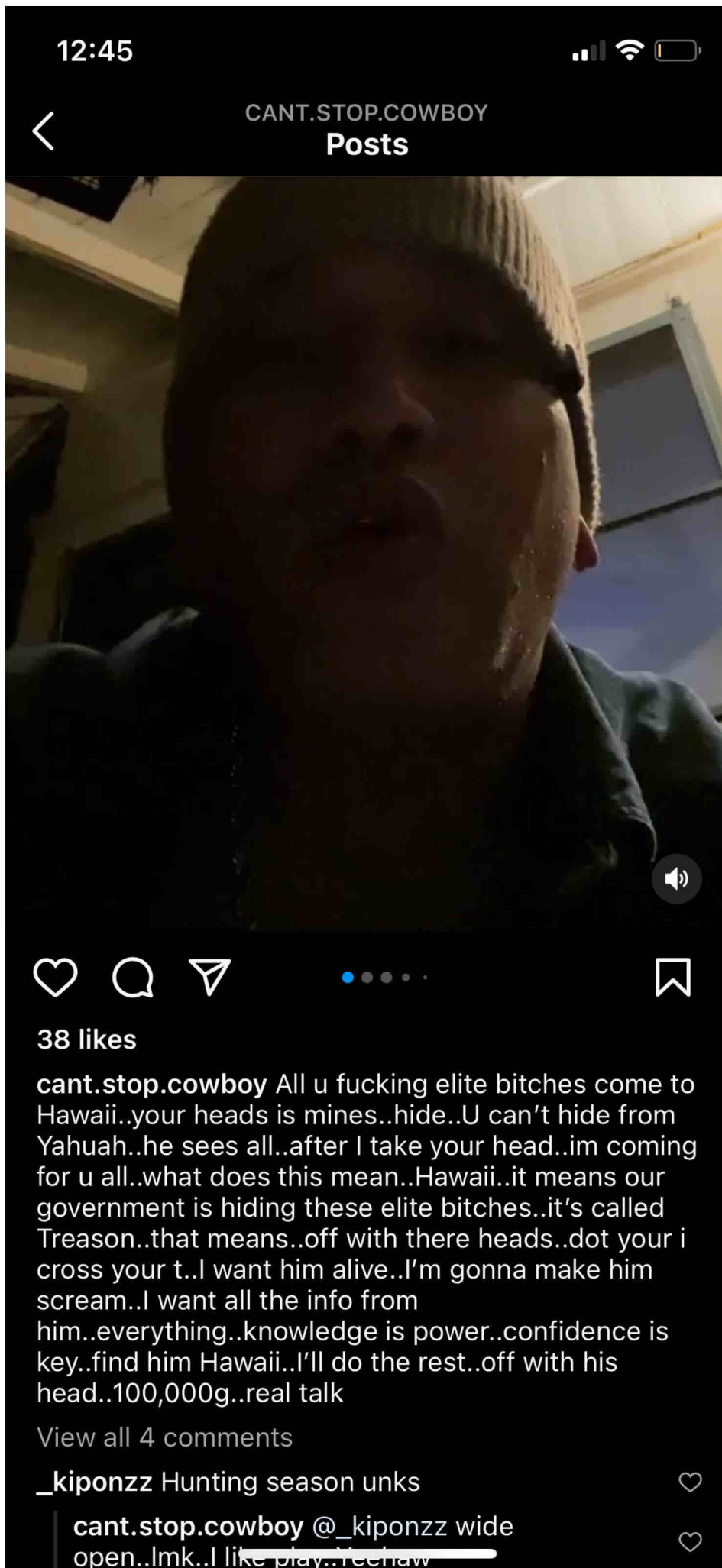
**cant.stop.cowboy** If u guys want to know who is the enemy..after u check these accounts out..ask your self this..why are we allies with..Israel..then when u fugue that out then ask your self why are all our..Politicians..boto sucking..Zionist..traders???



• • •















12:45



CANT.STOP.COWBOY

## Posts



38 likes

cant.stop.cowboy All u fucking elite bitches come to Hawaii..your heads is mines..hide..U can't hide from Yahuah..he sees all..after I take your head..im coming for u all..what does this mean..Hawaii..it means our government is hiding these elite bitches..it's called Treason..that means..off with there heads..dot your i cross your t..I want him alive..I'm gonna make him scream..I want all the info from him..everything..knowledge is power..confidence is key..find him Hawaii..I'll do the rest..off with his head..100,000g..real talk

View all 4 comments

\_kiponzz Hunting season unks

cant.stop.cowboy @\_kiponzz wide open..lmk..I like play..Yeehaw



March 9, 2021